



General Assembly

February Session, 2014

Raised Bill No. 457

LCO No. 2482



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 47-250 of the 2014 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2014*):

4 (b) The following requirements apply to meetings of the executive
5 board and committees of the association authorized to act for the
6 association:

7 (1) Meetings shall be open to the unit owners and to a representative
8 designated by any unit owner except during executive sessions. The
9 executive board and those committees may hold an executive session
10 only during a regular or special meeting of the board or a committee.
11 No final vote or action may be taken during an executive session. An
12 executive session may be held only to: (A) Consult with the
13 association's attorney concerning legal matters; (B) discuss existing or
14 potential litigation or mediation, arbitration or administrative

15 proceedings; (C) discuss labor or personnel matters; (D) discuss
16 contracts, leases and other commercial transactions to purchase or
17 provide goods or services currently being negotiated, including the
18 review of bids or proposals, if premature general knowledge of those
19 matters would place the association at a disadvantage; or (E) prevent
20 public knowledge of the matter to be discussed if the executive board
21 or committee determines that public knowledge would violate the
22 privacy of any person.

23 (2) For purposes of this section, a gathering of board members at
24 which the board members do not conduct association business is not a
25 meeting of the executive board. The executive board and its members
26 may not use incidental or social gatherings of board members or any
27 other method to evade the open meeting requirements of this section.

28 (3) Notwithstanding any actions taken by unanimous consent
29 pursuant to subdivision (8) of subsection (b) of this section, during and
30 after the period of declarant control, the executive board shall meet at
31 least two times a year at the common interest community or at a place
32 convenient to the community. Those meetings, and after termination of
33 the period of declarant control, all executive board meetings, shall be
34 at the common interest community or at a place convenient to the
35 community unless the bylaws are amended to vary the location of
36 those meetings.

37 (4) At each executive board meeting, the executive board shall
38 provide a reasonable opportunity for unit owners to comment
39 regarding any matter affecting the common interest community and
40 the association.

41 (5) Unless the meeting is included in a schedule given to the unit
42 owners or the meeting is called to deal with an emergency, the
43 secretary or other officer specified in the bylaws shall give notice of
44 each executive board meeting to each board member and to the unit
45 owners. The notice shall be given at least five days before the meeting

46 and shall state the time, date, place and agenda of the meeting, except
47 that notice of a meeting called to adopt, amend or repeal a rule shall be
48 given in accordance with subsection (a) of section 47-261b. If notice of
49 the meeting is included in a schedule given to the unit owners, the
50 secretary or other officer specified in the bylaws shall make available
51 an agenda for such meeting to each board member and to the unit
52 owners not later than forty-eight hours prior to the meeting.

53 (6) If any materials are distributed to the executive board before the
54 meeting, the executive board at the same time shall make copies of
55 those materials reasonably available to unit owners, except that the
56 board need not make available copies of unapproved minutes or
57 materials that are to be considered in executive session.

58 (7) Unless prohibited by the declaration or bylaws, the executive
59 board may meet by telephonic, video or other conferencing process if
60 (A) the meeting notice states the conferencing process to be used and
61 provides information explaining how unit owners may participate in
62 the conference directly or by meeting at a central location or
63 conference connection; and (B) the process provides all unit owners the
64 opportunity to hear or perceive the discussion and offer comments as
65 provided in subdivision (4) of this subsection.

66 (8) At an executive board meeting, any final vote on action to be
67 taken by the executive board shall be taken by roll-call vote and the
68 results of such roll-call vote shall be recorded to show the names of
69 executive board members voting yea and the executive board members
70 voting nay. The voting record shall thereafter be included in the
71 minutes of the meeting.

72 ~~[(8)]~~ (9) Instead of meeting, the executive board may act by
73 unanimous consent as documented in a record authenticated by all its
74 members. The secretary promptly shall give notice to all unit owners
75 of any action taken by unanimous consent.

76 ~~[(9)]~~ (10) Even if an action by the executive board is not in

77 compliance with this section, it is valid unless set aside by a court. A
78 challenge to the validity of an action of the executive board for failure
79 to comply with this section may not be brought more than sixty days
80 after the minutes of the executive board of the meeting at which the
81 action was taken are approved or the record of that action is
82 distributed to unit owners, whichever is later.

83 Sec. 2. Subsection (b) of section 47-252 of the 2014 supplement to the
84 general statutes is repealed and the following is substituted in lieu
85 thereof (*Effective October 1, 2014*):

86 (b) At a meeting of unit owners the following requirements apply:

87 (1) If only one of several owners of a unit is present at a meeting of
88 the association, that owner is entitled to cast all the votes allocated to
89 that unit. If more than one of the owners are present, the votes
90 allocated to that unit may be cast only in accordance with the
91 agreement of a majority in interest of the owners, unless the
92 declaration expressly provides otherwise. There is majority agreement
93 if any one of the owners casts the votes allocated to the unit without
94 protest being made promptly to the person presiding over the meeting
95 by any of the other owners of the unit.

96 (2) [Unless a greater number or fraction of the votes in the
97 association is required by this chapter or other law or the declaration]
98 Except as otherwise provided in this chapter, other law, the declaration
99 or bylaws, a majority of the votes cast is the decision of the unit
100 owners.

101 Sec. 3. Subsection (a) of section 47-270 of the general statutes is
102 repealed and the following is substituted in lieu thereof (*Effective*
103 *October 1, 2014*):

104 (a) Except in the case of a sale in which delivery of a public offering
105 statement is required under either this chapter or chapter 825, or
106 unless exempt under subsection (b) of section 47-262, a unit owner

107 shall furnish to a purchaser or such purchaser's attorney, before the
108 earlier of conveyance or transfer of the right to possession of a unit, a
109 copy of the declaration, other than any surveys and plans, the bylaws,
110 the rules or regulations of the association, and a certificate containing:
111 (1) A statement disclosing the effect on the proposed disposition of any
112 right of first refusal or other restraint on the free alienability of the unit
113 held by the association; (2) a statement setting forth the amount of the
114 periodic common expense assessment and any unpaid common
115 expense or special assessment currently due and payable from the
116 selling unit owner; (3) a statement of any other fees payable by the
117 owner of the unit being sold; (4) a statement of any capital
118 expenditures in excess of one thousand dollars approved by the
119 executive board for the current and next succeeding fiscal year; (5) a
120 statement of the amount of any reserves for capital expenditures; (6)
121 the current operating budget of the association; (7) a statement of any
122 unsatisfied judgments against the association and the existence of any
123 pending suits or administrative proceedings in which the association is
124 a party, including foreclosures but excluding other collection matters;
125 (8) a statement of the insurance coverage provided for the benefit of
126 unit owners, including any schedule of standard fixtures,
127 improvements and betterments in the units covered by the
128 association's insurance that the association prepared pursuant to
129 subsection (b) of section 47-255; (9) a statement of any restrictions in
130 the declaration affecting the amount that may be received by a unit
131 owner on sale, condemnation, casualty loss to the unit or the common
132 interest community or termination of the common interest community;
133 (10) in a cooperative, an accountant's statement, if any was prepared,
134 as to the deductibility for federal income tax purposes by the unit
135 owner of real property taxes and interest paid by the association; (11) if
136 the association is unincorporated, the name of the statutory agent for
137 service of process filed with the Secretary of the State pursuant to
138 section 47-244a; (12) a statement describing any pending sale or
139 encumbrance of common elements; (13) a statement disclosing the
140 effect on the unit to be conveyed of any restrictions on the owner's

141 right to use or occupy the unit or to lease the unit to another person;
142 (14) a statement disclosing the number of units whose owners are at
143 least sixty days' delinquent in paying their common charges on a
144 specified date within sixty days of the date of the statement; (15) a
145 statement disclosing the number of foreclosure actions brought by the
146 association during the past twelve months and the number of such
147 actions pending on a specified date within sixty days of the date of the
148 statement; [and] (16) a statement disclosing whether the association
149 audits its financial records and if so, the date on which the association's
150 financial records were most recently audited and the name and
151 professional credentials of the person or entity performing such audit;
152 and (17) any established maintenance standards adopted by the
153 association pursuant to subsection (e) of section 47-257.

154 Sec. 4. Subsection (b) of section 20-457 of the general statutes is
155 repealed and the following is substituted in lieu thereof (*Effective*
156 *October 1, 2014*):

157 (b) No person shall: (1) Present or attempt to present, as his own, the
158 certificate of another, (2) knowingly give false evidence of a material
159 nature to the commission or department for the purpose of procuring a
160 certificate, (3) represent himself falsely as, or impersonate, a registered
161 community association manager, (4) use or attempt to use a certificate
162 which has expired or which has been suspended or revoked, (5) offer
163 to provide association management services without having a current
164 certificate of registration under sections 20-450 to 20-462, inclusive, (6)
165 represent in any manner that his registration constitutes an
166 endorsement of the quality of his services or of his competency by the
167 commission or department. In addition to any other remedy provided
168 for in sections 20-450 to 20-462, inclusive, any person who violates any
169 provision of this subsection shall be fined not more than [five
170 hundred] one thousand dollars or imprisoned for not more than one
171 year or be both fined and imprisoned. A violation of any of the
172 provisions of sections 20-450 to 20-462, inclusive, shall be deemed an
173 unfair or deceptive trade practice under subsection (a) of section 42-

174 110b.

175 Sec. 5. Subsection (a) of section 47-224 of the general statutes is
176 repealed and the following is substituted in lieu thereof (*Effective*
177 *October 1, 2014*):

178 (a) The declaration shall contain:

179 (1) The names of the common interest community and the
180 association and a statement that the common interest community is
181 either a condominium, cooperative or planned community;

182 (2) The name of every town in which any part of the common
183 interest community is situated;

184 (3) A legally sufficient description of the real property included in
185 the common interest community;

186 (4) A statement of the maximum number of units that the declarant
187 reserves the right to create;

188 (5) In a condominium or planned community, a description of the
189 boundaries of each unit created by the declaration, including the unit's
190 identifying number or, in a cooperative, a description, which may be
191 by surveys or plans, of each unit created by the declaration, including
192 the unit's identifying number, its size or number of rooms and its
193 location within a building if it is within a building containing more
194 than one unit;

195 (6) A description of any limited common elements, other than those
196 specified in subdivisions (2) and (4) of section 47-221, as provided in
197 subdivision (10) of subsection (b) of section 47-228 and, in a planned
198 community, any real property that is or must become common
199 elements;

200 (7) A description of any real property, except real property subject
201 to development rights, that may be allocated subsequently as limited

202 common elements, other than limited common elements specified in
203 subdivisions (2) and (4) of section 47-221, together with a statement
204 that they may be so allocated;

205 (8) A description of any development rights, as defined in
206 subsection [(14)] (16) of section 47-202, and other special declarant
207 rights, as defined in subsection [(29)] (33) of section 47-202, reserved by
208 the declarant, together with a legally sufficient description of the real
209 property to which each of those rights applies and a time limit within
210 which each of those rights must be exercised;

211 (9) If any development right may be exercised with respect to
212 different parcels of real property at different times, a statement to that
213 effect together with (A) either a statement fixing the boundaries of
214 those portions and regulating the order in which those portions may
215 be subjected to the exercise of each development right or a statement
216 that no assurances are made in those regards, and (B) a statement as to
217 whether, if any development right is exercised in any portion of the
218 real property subject to that development right, that development right
219 must be exercised in all or in any other portion of the remainder of that
220 real property;

221 (10) Any other conditions or limitations under which the rights
222 described in subdivision (8) of this subsection may be exercised or will
223 lapse;

224 (11) An allocation to each unit of the allocated interests in the
225 manner described in section 47-226;

226 (12) Any restrictions (A) on alienation of the units, including any
227 restrictions on leasing which exceed the restrictions on leasing units
228 which executive boards may impose pursuant to [subdivision (2) of
229 subsection (c) of section 47-244] subdivision (3) of subsection (f) of
230 section 47-261b, and (B) on the amount for which a unit may be sold or
231 on the amount that may be received by a unit owner on sale,
232 condemnation or casualty loss to the unit or to the common interest

233 community, or on termination of the common interest community;

234 (13) The recording data for recorded easements and licenses
235 appurtenant to or included in the common interest community or to
236 which any portion of the common interest community is or may
237 become subject by virtue of a reservation in the declaration; and

238 (14) All matters required by sections 47-225 to 47-228, inclusive,
239 sections 47-234 and 47-235 and subsection (d) of section 47-245.

240 Sec. 6. Subsection (a) of section 47-17a of the 2014 supplement to the
241 general statutes is repealed and the following is substituted in lieu
242 thereof (*Effective October 1, 2014*):

243 (a) As used in this section:

244 (1) "Person" means an individual, corporation, limited liability
245 company, partnership, association, trustee or other entity capable of
246 holding an interest in real property or any combination thereof.

247 (2) (A) "Private transfer fee" means a fee or charge payable (i) upon
248 the conveyance and subsequent conveyance of an interest in real
249 property located in this state, or (ii) for the right to make or accept such
250 conveyance;

251 (B) "Private transfer fee" does not include:

252 (i) Any consideration payable by a grantee to a grantor for the
253 conveyance of an interest in real property located in this state,
254 including any subsequent consideration payable by such grantee for
255 such real property based on subsequent appreciation, development or
256 sale of such real property, provided such subsequent consideration is
257 payable on a one-time basis and the obligation to pay such
258 consideration does not bind successors in title to such real property.
259 For purposes of this subparagraph, "real property" includes a mineral
260 estate, as defined in section 47-330;

261 (ii) Any commission payable to a real estate broker or a real estate
262 salesperson for the sale of real property located in this state pursuant
263 to a contract or agreement between such broker or salesperson and a
264 grantee or grantor, including any subsequent commission payable by
265 such grantee or grantor for such real property based on subsequent
266 appreciation, development or sale of such real property;

267 (iii) Any interest, fee, charge or other amount payable by a borrower
268 to a lender pursuant to a loan secured by a mortgage against real
269 property located in this state, including any fee payable to such lender
270 for consenting to an assumption of such loan or conveyance of such
271 real property subject to such mortgage, any fee or charge payable to
272 such lender for an estoppel letter or certificate issued by such lender,
273 and any shared appreciation interest, profit participation or other
274 consideration payable to the lender in connection with such loan;

275 (iv) Any rent, reimbursement, fee, charge or other amount payable
276 by a lessee to a lessor, including any fee or charge payable to such
277 lessor for consenting to an assignment, sublease or encumbrance of a
278 rental agreement or lease;

279 (v) Any consideration payable to the holder of an option to
280 purchase an interest in real property or the holder of a right of first
281 refusal or first offer to purchase an interest in real property located in
282 this state, for such holder's waiver, release or nonexercise of such
283 option or right;

284 (vi) Any tax, assessment, fine, fee, charge or other amount payable
285 to or imposed by a governmental entity;

286 (vii) Any dues, assessment, fine, contribution, fee, charge or other
287 amount payable to an association or a unit owners' association
288 organized [under chapter 828] as a common interest community,
289 pursuant to any declaration, covenant, law, association bylaw,
290 association rule or association regulation, including a fee or charge
291 payable to such association for an estoppel letter or certificate issued

292 by such association or its authorized agent;

293 (viii) Any dues, assessment, fine, contribution, fee, charge or other
 294 amount imposed by a declaration or covenant encumbering a
 295 municipality or a county or any combination thereof or a
 296 neighborhood or other area, irrespective of boundaries or political
 297 subdivision, in this state, and payable solely to an organization that is
 298 tax exempt pursuant to 26 USC 501(c) for the purpose of supporting
 299 cultural, educational, charitable, recreational, environmental,
 300 conservation or other similar activities that benefit such municipality,
 301 county, neighborhood or other area; or

302 (ix) Any dues, assessment, contribution, fee, charge or other amount
 303 payable for the purchase or transfer of a club membership related to
 304 real property located in this state.

305 (3) "Private transfer fee obligation" means an obligation arising
 306 under a declaration or a covenant recorded against the title to real
 307 property located in this state or under any contractual agreement or
 308 promise, whether or not recorded, that requires or purports to require
 309 the payment of a private transfer fee upon a conveyance or a
 310 subsequent conveyance of an interest in such real property.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	47-250(b)
Sec. 2	<i>October 1, 2014</i>	47-252(b)
Sec. 3	<i>October 1, 2014</i>	47-270(a)
Sec. 4	<i>October 1, 2014</i>	20-457(b)
Sec. 5	<i>October 1, 2014</i>	47-224(a)
Sec. 6	<i>October 1, 2014</i>	47-17a(a)

Statement of Purpose:

To: (1) Ensure transparency in the voting processes utilized by a common interest ownership community, (2) provide greater flexibility to a common interest ownership community relating to prescribed

voting methods, (3) include information relating to an audit of an association in a resale certificate, (4) increase the penalty for a community association manager who operates without a certificate of registration, and (5) make other technical changes to the Common Interest Ownership Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]